

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

915 CIVIL APPLICATION NO.1864 OF 2020
IN
FIRST APPEAL STAMP NO. 2388 OF 2020

SHAIKH FAKIR SHAIKH CHAND AND ORS

VERSUS

THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Applicants : Mr R.A. Deshmukh
AGP for Respondent No.1/State : Mr A.B. Chate

WITH
CIVIL APPLICATION NO. 1865/2020
IN
FIRST APPEAL STAMP NO. 2621 OF 2020

GANPATI DHONDIBA JAGTAP (DIED)
THROUGH LRS. GANGARAM AND ORS.

VERSUS

THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Applicants : Mr R.A. Deshmukh
AGP for Respondent No.1/State : Mr A.B. Chate

WITH
CIVIL APPLICATION NO. 1866 OF 2020
IN
FIRST APPEAL STAMP NO. 2618 OF 2020

SHRIRANG BHUJANG SHINDE (DIED)
THROUGH LRS. JANABAI AND ORS.

VERSUS

THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Applicants : Mr R.A. Deshmukh
AGP for Respondent No.1/State : Mr A.B. Chate

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 10th February 2022

PER COURT :

1. These are the applications for condonation of delay moved by the applicants.

2. Heard Mr R.A. Deshmukh, learned counsel for the applicants. Mr Deshmukh submits that there is delay of 1168 days in preferring the appeals in respective matters. The applicants being poor agriculturists, could not arrange for the funds to prefer appeals within time. After arranging the funds, the applicants have preferred the appeals with delay condonation application. The delay is not intentional. Due to financial crisis, the applicants could not prefer the appeals within time. He submits that delay needs to be condoned in the interest of justice.

3. Mr A.B. Chate, learned AGP for respondent No.1/State strongly opposed to condone the delay. He submits that no sufficient reasons are assigned by the applicants for condonation of delay. The delay is inordinate. The applications for condonation of delay are liable to be dismissed.

4. Respondent No. 2 though duly served with notice in respective applications, remained absent. None present for respondent No. 2 in the Court hall as well as no one present online when the matter is called out. There is delay of 1168 days in preferring these proposed appeals. The proposed appeals are arising out of compulsory land acquisitions. In view of the citation in case of ***K. Subbarayudu and others Vs. The Special Deputy Collector (Land Acquisition) reported in 2017 (12) SCC 840***, the different yardstick needs to be applied in respect of the applicants dealing with the application for

condonation of delay in land acquisition matters for enhancement of compensation in case of land of agriculturists.

5. Having regard to the legal position made clear by the Hon'ble Supreme Court in case of ***K. Subbarayudu and others Vs. The Special Deputy Collector (Land Acquisition)*** (supra) and for the reasons stated in the applications for condonation of delay para Nos. 3 to 5, the delay needs to be condoned. However, the applicants shall not entitled to get statutory benefits and interest in respect of delayed period which is being condoned today. The applicants to furnish the undertaking waiving the interest and statutory benefits for the delayed period.

ORDER

- (i) The applications for condonation of delay are hereby allowed on condition that the respective applicants shall furnish undertaking with the Registrar (Judicial) of this Court stating that they shall not claim statutory benefits and interest in respect of delayed period which is condoned today within a period of four weeks.
- (ii) After furnishing the said undertaking, the Registry to make scrutiny of the appeals as per the procedure and those be numbered and placed before the Court for admission.
- (iii) The Civil Applications are accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

mta